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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,952	04/24/2006	Toru Kawaguchi	P29804	6004
52123 7590 01/30/2009 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER PEARSON, DAVID J				
ART UNIT 2437		PAPER NUMBER		
NOTIFICATION DATE 01/30/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

### Office Action Summary

**Application No.**

10/576,952

**Applicant(s)**

KAWAGUCHI ET AL.

**Examiner**

DAVID J. PEARSON

**Art Unit**

2437

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. Claims 1-25 have been canceled. Claims 26-37 are newly added. Claims 26-37 have been examined.

***Response to Arguments***

2. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 101***

4. Claims 31-37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 31-33 recite, "A content distribution server..." The components of the "server" are "a license information generation section", "a content encryption section", "a communication section" and "a playback control information generation section." The "sections" that make up the "server" could be programs (note Specification, page 35, lines 11-15). Therefore the "server" is composed entirely of components that could be considered software. In order for claim 31 to be statutory, the "server" must include a physical component in all possible embodiments (e.g. processor, memory, network connection, etc.). Note MPEP 2106.01.

Claims 34-37 recite, "A content playback control terminal..." The components of the "terminal" are "a communication section", "a decoding section" and "a playback control information processing section." The "sections" that make up the "terminal" could be programs (note Specification, page 35, lines 11-15). Therefore the "terminal" is composed entirely of components that could be considered software. In order for claim 34 to be statutory, the "terminal" must include a physical component in all possible embodiments (e.g. processor, memory, network connection, etc.). Note MPEP 2106.01.

***Claim Rejections - 35 USC § 103***

5. Claims 26-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over England et al. (U.S. Patent Application Publication 2002/0006204; hereafter "England") in further view of Abecassis (U.S. Patent 6,304,715).

For claim 26, England teaches a content playback control method that controls playback by decoding encrypted content only when a usage condition is met, using license information containing a content key and the usage key the method comprising:

Determining whether the usage condition specifies at least a playback based on playback control information (note paragraph [0121]).

England differs from the claimed invention in that they fail to teach:

When the usage condition specifies at least the playback based on the playback control information, controlling a possibility and impossibility of a special playback in a section described in the playback control information, according to a restriction for the special playback described in the playback control information.

Abecassis teaches:

When the usage condition specifies at least the playback based on the playback control information (note column 15, lines 63-67), controlling a possibility and impossibility of a special playback in a section described in the playback control information, according to a restriction for the special playback described in the playback control information (note column 16, lines 54-60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the licensing of England and the segment playback control of Abecassis. One of ordinary skill in the art at the time of the invention would have been motivated to combine England and Abecassis because it would inhibit the user from skipping the commercials that reduced the cost of their content (note column 16, lines 42-60 of Abecassis).

For claim 31, the combination of England and Abecassis teaches a content distribution server, comprising:

a license information generating section that generates license information containing a content key (note paragraph [0089] of England) for generating encrypted content by encrypting content (note paragraph [0066] of England) and containing a usage condition (note paragraph [0147] of England) that specifies at least a playback based on playback control information describing a section of the encrypted content and a restriction for a special playback of the section (note column 16, lines 54-60 of Abecassis);

A content encrypting section that generates the encrypted content encrypting the content by the content key (note paragraph [0066] of England); and

A communication section that transmits the license information generated in the license information generating section (note paragraph [0127] of England) and the encrypted content generated in the content encrypting section (note paragraph [0101] of England).

For claim 34, the combination of England and Abecassis teaches a content playback terminal that controls a playback by decoding encrypted content, only when a usage condition is met, using license information containing a content key and the usage condition, the terminal comprising:

A communication section that receives the license information (note paragraph [0127] of England) and the encrypted content (note paragraph [0101] of England);

A decoding section that decodes the received encrypted content using the received content key (note paragraph [0112] of England); and

A playback control information processing section that, when the usage condition specifies at least a playback based on playback control information (note paragraph [0110] of England), controls a possibility and impossibility of a special playback of decoded content in a section described in the playback control information, according to the restriction for the special playback described in the playback control information (note column 16, lines 54-60 of Abecassis).

For claims 27 and 35, the combination of England and Abecassis teaches claims 26 and 34, wherein the special playback comprises at least one of forward, skip and jump (note column 17, lines 19-22 of Abecassis).

For claims 28 and 36, the combination of England and Abecassis teaches claims 26 and 34, wherein the restriction for the special playback is described by a possibility/impossibility code (note column 17, lines 15-22 of Abecassis).

For claims 29 and 37, the combination of England and Abecassis teaches claims 26 and 34, wherein a section to which the restriction for the special playback applies is described on a per-segment basis (note column 17, lines 15-22 of Abecassis).

For claim 30, the combination of England and Abecassis teaches claim 26, wherein the license information manages the content key and the usage condition as a pair (note paragraphs [0145]-[0150] of England).

For claim 32, the combination of England and Abecassis teaches claim 31, wherein the communication section transmits the license information (note paragraph [0127] of England) as a pair of the content key and the usage condition (note paragraphs [0145]-[0150] of England).

For claim 33, the combination of England and Abecassis teaches claim 31, further comprising:

A playback control information generating section that generates the playback control information (note paragraph [0145] of England),

Wherein the playback control information generating section describes a section to which the restriction for the special playback applies, in the playback control information, on a per-segment basis (note column 17, lines 15-22 of Abecassis).

### ***Response to Arguments***

6. Applicant argues the “server” and “terminal” of claims 31 and 34 are articles of manufacture and thus, statutory subject matter (note Remarks, pages 2-3).

Examiner disagrees. While, as applicant notes, a "server" and a "terminal" can refer to a hardware computer system. However, a "server" can also refer to a computer program (e.g. Apache Web Server). The "server" in claim 31 is comprised entirely of "sections" which could be considered software. The "server" in claim 31 has no components (e.g. processor, memory, network connection, etc.) which require the "server" to be a hardware computer system. Therefore, the "server" in claim 31 has embodiments where the "server" could be a hardware system and embodiments where the "server" could be software. In order for claim 31 to be statutory subject matter, all possible embodiments must be statutory subject matter.

Similarly, the "terminal" of claim 34 is comprised entirely of "sections" which could be software. The "terminal" in claim 34 has no components (e.g. processor, memory, network connection, etc.) which require the "terminal" to be a hardware computer system. In order for claim 34 to be statutory subject matter, all possible embodiments must be statutory subject matter.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nishimoto et al. (U.S. Patent Application Publication 2004/0093494) teaches a play sequence number which prevents skipping of scenes when watching the content (note paragraphs [0082], [0087]).

Wang (U.S. Patent Application Publication 2002/0191950) teaches skipping control device which prevents skipping based on content classification (note paragraph [0060]).

Okada et al. (U.S. Patent Application Publication 2004/0047588) teaches scripts which can prohibit the user from fast forwarding through content such as the copyright notice (note paragraph [0285]).

Tanikawa et al. (U.S. Patent 7,092,615) teaches content sections which are determined to be skippable or non-skippable by the content reproduction apparatus by use of a skip attribute (note Abstract and Fig. 3).

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PEARSON whose telephone number is (571) 272-0711. The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm; off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. J. P./  
Examiner, Art Unit 2437

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/Emmanuel L. Moise/

Supervisory Patent Examiner, Art Unit 2437